



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

November 6, 1995

The Honorable Mark W. Stiles
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 95-068

Re: Whether the board of trustees of an independent school district may act on recommendation of an "interview committee" appointed by the district superintendent (ID# 36626)

Dear Representative Stiles:

You have requested our opinion as to whether the board of trustees of an independent school district may act on the recommendation of an "interview committee" appointed by the district superintendent. Specifically, you ask:

If the superintendent appoints an interview committee but does not expressly delegate authority, may the board accept or reject recommendations made by the committee if the recommendations are not supported or endorsed by the superintendent?

Section 11.163 of the newly adopted Education Code, Act of May 27, 1995, 74th Leg., R.S., ch. 260, 1995 Tex. Sess. Law Serv. 2207, provides:

Sec. 11.163. EMPLOYMENT POLICY. (a) The board of trustees of each independent school district shall adopt a policy providing for the employment and duties of district personnel. The employment policy must provide that:

(1) the superintendent has sole authority to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent; and

(2) each principal must approve each teacher or staff appointment to the principal's campus as provided by Section 11.202.

(b) The board of trustees may accept or reject the superintendent's recommendation regarding the selection of district personnel. If the board rejects the superintendent's recommendation,

the superintendent shall make alternative recommendations until the board accepts a recommendation.

(c) The employment policy may:

(1) specify the terms of employment with the district; or

(2) delegate to the superintendent the authority to determine the terms of employment with the district.

Id. § 1, at 2230 (emphasis added).

As the italicized portion of the statute makes clear, a school board's "employment policy" must direct that the superintendent has the "sole authority" to recommend to the board the selection of district personnel. Whether or not the superintendent appoints an "interview committee," the statute empowers the board to receive and act upon only those personnel recommendations that are made by the superintendent. Thus, in answer to your question, the board may neither "accept" nor "reject" recommendations made by an "interview committee," regardless of whether those recommendations are "supported or endorsed by the superintendent."

Although the statute does not expressly provide for an "interview committee," we do not believe that the superintendent is necessarily thereby prohibited from using the services of such a committee. Section 11.201 declares that a superintendent's duties include, among other things:

...

(5) managing the day-to-day operations of the district as its administrative manager;

...

(8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;

... [and]

(10) organizing the district's central administration

Id. at 2230-31. If, in carrying out these and other assigned duties, the superintendent finds it efficacious to appoint an "interview committee" to assist him in the selection of district personnel to recommend to the board, we do not believe that the statute precludes his doing so. In whatever manner he chooses to use the committee, however, the actual recommendations to the board are his alone to make.

S U M M A R Y

Although a superintendent of an independent school district is not precluded from using the services of an "interview committee" to assist him in the selection of district personnel, he has the "sole authority" to "make recommendations to the board [of trustees] regarding the selection" of such individuals.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Rick Gilpin", followed by a horizontal line.

Rick Gilpin
Deputy Chair
Opinion Committee